

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**PARKERSBURG DIVISION**

UNITED STATES OF AMERICA

Movant,

CORNELIUS TUCKER, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 6:08-cv-00272

DARRELL HARPER et al.,

Defendants.

**ORDER**

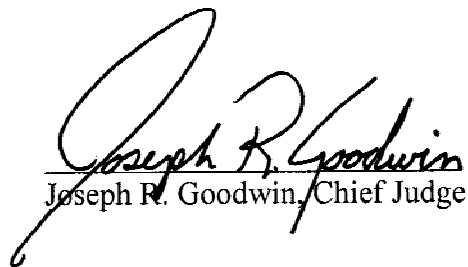
This action was referred to the Honorable Judge Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and has recommended that the court **GRANT** the United States of America's Motion to Dismiss Darrell Harper and to Substitute the United States as Party Defendant; **GRANT** the United States of America's Motion to Dismiss; and **DISMISS without prejudice** this action as to the remaining defendants. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

The failure to object to a magistrate judge's report may be deemed a waiver on appeal of the substance of the report and the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th

Cir. 1983); *Campbell v. United States D. Ct. N.D. Cal.*, 501 F.2d 196, 206 (9th Cir. 1974). The court has reviewed the Magistrate Judge's findings of fact and recommendations and finds no clear error on the face of the record. Therefore, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendations. The court **GRANTS** the United States of America's Motion to Dismiss Darrell Harper and to Substitute the United States as Party Defendant [Docket 2]; **GRANTS** the United States of America's Motion to Dismiss [Docket 4]; **DISMISSES without prejudice** this action as to the United States of America; **DISMISS without prejudice** this action as to the remaining defendants; **DISMISSES** this action from the docket, and **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: June 13, 2008



Joseph R. Goodwin, Chief Judge